

Senate Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 187

SENATE BILL 1239

AN ACT

AMENDING SECTIONS 11-632 AND 35-323, ARIZONA REVISED STATUTES; RELATING TO
COUNTY TREASURERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-632, Arizona Revised Statutes, is amended to
3 read:

4 11-632. Issuance of duplicate warrant

5 A. When it appears to the satisfaction of the board or county school
6 superintendent by affidavit or otherwise that a warrant on the county
7 treasurer has been lost or destroyed prior to payment and there is no
8 reasonable probability of its being found or presented, the board may direct
9 the issuance to the owner of a duplicate of the lost or destroyed warrant.
10 Before issuing the duplicate, however, the board or county school
11 superintendent shall send a written stop payment notice to the county
12 treasurer, giving the number, amount and date of the warrant, the payee and
13 the fund on which drawn. ~~The duplicate warrant issued shall be plainly~~
14 ~~stamped or marked so that its character may be readily ascertained.~~ Such
15 duplicate warrant issued under authority of this section shall constitute
16 full and sufficient authority to the county treasurer for disbursement of
17 public monies in the amount set forth on the duplicate warrant. The county
18 treasurer shall not pay any warrant on which a stop payment notice has been
19 made unless the board has released the stop payment in writing.

20 B. The board of supervisors shall establish procedures for issuing
21 duplicate warrants that protect the county and provide the owner with a
22 duplicate warrant within a reasonable time.

23 Sec. 2. Section 35-323, Arizona Revised Statutes, is amended to read:

24 35-323. Investing public monies; bidding; security and other
25 requirements

26 A. The treasurer shall invest and reinvest public monies in securities
27 and deposits with a maximum maturity of five years. All public monies shall
28 be invested in eligible investments. Eligible investments are:

29 1. Certificates of deposit in eligible depositories.

30 2. Certificates of deposit in one or more federally insured banks or
31 savings and loan associations in accordance with the procedures prescribed in
32 section 35-323.01.

33 3. Interest bearing savings accounts in banks and savings and loan
34 institutions doing business in this state whose accounts are insured by
35 federal deposit insurance for their industry, but only if deposits in excess
36 of the insured amount are secured by the eligible depository to the same
37 extent and in the same manner as required under this article.

38 4. Repurchase agreements with a maximum maturity of one hundred eighty
39 days.

40 5. The pooled investment funds established by the state treasurer
41 pursuant to section 35-326.

42 6. Obligations issued or guaranteed by the United States or any of the
43 senior debt of its agencies, sponsored agencies, corporations, sponsored
44 corporations or instrumentalities.

1 7. Bonds or other evidences of indebtedness of this state or any of
2 its counties, incorporated cities or towns or school districts.

3 8. Bonds, notes or evidences of indebtedness of any county, municipal
4 district, municipal utility or special taxing district of any state that are
5 payable from revenues, earnings or a special tax specifically pledged for the
6 payment of the principal and interest on the obligations, and for the payment
7 of which a lawful sinking fund or reserve fund has been established and is
8 being maintained, but only if no default in payment on principal or interest
9 on the obligations to be purchased has occurred within five years of the date
10 of investment, or, if such obligations were issued less than five years
11 before the date of investment, no default in payment of principal or interest
12 has occurred on the obligations to be purchased nor any other obligations of
13 the issuer within five years of the investment.

14 9. Bonds, notes or evidences of indebtedness issued by any county
15 improvement district or municipal improvement district of any state to
16 finance local improvements authorized by law, if the principal and interest
17 of the obligations are payable from assessments on real property within the
18 improvement district. An investment shall not be made if:

19 (a) The face value of all such obligations, and similar obligations
20 outstanding, exceeds fifty per cent of the market value of the real property,
21 and if improvements on which the bonds or the assessments for the payment of
22 principal and interest on the bonds are liens inferior only to the liens for
23 general ad valorem taxes.

24 (b) A default in payment of principal or interest on the obligations
25 to be purchased has occurred within five years of the date of investment, or,
26 if the obligations were issued less than five years before the date of
27 investment, a default in the payment of principal or interest has occurred on
28 the obligations to be purchased or on any other obligation of the issuer
29 within five years of the investment.

30 10. Commercial paper of prime quality that is rated within the top two
31 ratings by a nationally recognized rating agency ~~or its successors~~. All
32 commercial paper must be issued by corporations organized and doing business
33 in the United States.

34 11. Bonds, debentures and notes that are issued by corporations
35 organized and doing business in the United States and that are rated within
36 the top three ratings by a nationally recognized rating agency ~~or its~~
37 ~~successors~~.

38 12. Negotiable or brokered certificates of deposit issued by a
39 nationally or state chartered bank or savings and loan association.

40 13. SECURITIES OF OR ANY OTHER INTERESTS IN ANY OPEN-END OR CLOSED-END
41 MANAGEMENT TYPE INVESTMENT COMPANY OR INVESTMENT TRUST, INCLUDING EXCHANGE
42 TRADED FUNDS WHOSE UNDERLYING INVESTMENTS ARE INVESTED IN SECURITIES ALLOWED
43 BY STATE LAW, REGISTERED UNDER THE INVESTMENT COMPANY ACT OF 1940 (54 STAT.
44 789; 15 UNITED STATES CODE SECTIONS 80a-1 THROUGH 80a-64), AS AMENDED.

1 B. Certificates of deposit shall be purchased from the eligible
2 depository bidding the highest permissible rate of interest. No monies over
3 one hundred thousand dollars may be awarded at any interest rate less than
4 one hundred three per cent of the equivalent bond yield of the offer side of
5 United States treasury bills having a similar term. If the eligible
6 depository offering to pay the highest rate of interest has bid only for a
7 portion of the monies to be awarded, the remainder of the monies shall be
8 awarded to eligible depositories bidding the next highest rates of interest.

9 C. An eligible depository is not eligible to receive total aggregate
10 deposits from this state and all its subdivisions in an amount exceeding
11 twice its capital structure as outlined in the last call of condition of the
12 superintendent of financial institutions.

13 D. If two or more eligible depositories submit bids of an identical
14 rate of interest for all or any portion of the monies to be deposited, the
15 award of the deposit of the monies shall be made to the eligible depository
16 among those submitting identical bids having, at the time of the bid opening,
17 the lowest ratio of total public deposits in relation to its capital
18 structure.

19 E. Each bid submitted, and not withdrawn prior to the time specified,
20 constitutes an irrevocable offer to pay interest as specified in the bid on
21 the deposit, or portion bid for, and the award of a deposit in accordance
22 with this section obligates the depository to accept the deposit and pay
23 interest as specified in the bid pursuant to which the deposit is awarded.

24 F. The treasurer shall maintain a record of all bids received and
25 shall make available to the board of deposit at its next regularly scheduled
26 meeting a correct list showing the bidders, the bids received and the amount
27 awarded. These records shall be available to the public and shall be kept in
28 the possession of the treasurer for not less than two years from the date of
29 the report.

30 G. Any eligible depository, before receiving a deposit in excess of
31 the insured amount under this article, shall deliver collateral for the
32 purposes of this subsection equal to at least one hundred one per cent of the
33 deposit. The collateral shall be any of the following:

34 1. A bond executed by a surety company that is approved by the
35 treasury department of the United States and authorized to do business in
36 this state. The bond shall be approved as to form by the legal advisor of
37 the treasurer.

38 2. Securities or instruments of the following character:

39 (a) United States government or agency obligations.

40 (b) State, county, school district and other district municipal bonds.

41 (c) Registered warrants of this state, a county or other political
42 subdivisions of this state, when offered as security for monies of the state,
43 county or political subdivision by which they are issued.

44 (d) First mortgages and trust deeds on improved, unencumbered real
45 estate located in this state. No single first mortgages or trust deeds may

1 represent more than ten per cent of the total collateral. The treasurer may
2 require that the first mortgages or trust deeds comprising the total
3 collateral security be twice the amount the eligible depository receives on
4 deposit. First mortgages or trust deeds qualify as collateral subject to the
5 following limitations:

6 (i) The promissory note or other evidences of indebtedness secured by
7 such first mortgage or trust deed shall have been in existence for at least
8 three years and shall not have been in default during this period.

9 (ii) An eligible depository shall at its own expense execute, deposit
10 with the treasurer and record with the appropriate county recorder a complete
11 sale and assignment with recourse in a form approved by the attorney general,
12 together with an unconditional assumption of obligation to promptly pay to
13 the entitled parties public monies in its custody upon lawful demand and
14 tender of resale and assignment.

15 Eligible depositories may deposit the security described in this subdivision
16 with the state treasurer, and county, city or town treasurers may accept the
17 security described in this subdivision at their option.

18 3. The safekeeping receipt of a federal reserve bank or any bank
19 located in a reserve city, or any bank authorized to do business in this
20 state, whose combined capital, surplus and outstanding capital notes and
21 debentures on the date of the safekeeping receipt are ten million dollars or
22 more, evidencing the deposit therein of any securities or instruments
23 described in this section. A safekeeping receipt shall not qualify as
24 security, if issued by a bank to secure its own public deposits, unless
25 issued directly through its trust department. The safekeeping receipt shall
26 show upon its face that it is issued for the account of the treasurer and
27 shall be delivered to the treasurer. The safekeeping receipt may provide for
28 the substitution of securities or instruments which qualify under this
29 section with the affirmative act of the treasurer.

30 H. The securities, instruments or safekeeping receipt for the
31 securities, instruments or warrants shall be accepted at market value if not
32 above par, and, if at any time their market value becomes less than the
33 deposit liability to that treasurer, additional securities or instruments
34 required to guarantee deposits shall be deposited immediately with the
35 treasurer who made the deposit and deposited by the eligible depository in
36 which the deposit was made.

37 I. The condition of the surety bond, or the deposit of securities,
38 instruments or a safekeeping receipt, must be such that the eligible
39 depository will promptly pay to the parties entitled public monies in its
40 custody, upon lawful demand, and will, when required by law, pay the monies
41 to the treasurer making the deposit.

42 J. Notwithstanding the requirements of this section, any institution
43 qualifying as an eligible depository may accept deposits of public monies to
44 the total then authorized insurance of accounts, insured by federal deposit

1 insurance, without depositing a surety bond or securities in lieu of the
2 surety bond.

3 K. An eligible depository shall report monthly to the treasurer the
4 total deposits of that treasurer and the par value and the market value of
5 any pledged collateral securing those deposits.

6 L. When a security or instrument pledged as collateral matures or is
7 called for redemption, the cash received for the security or instrument shall
8 be held in place of the security until the depository has obtained a written
9 release or provided substitute securities or instruments.

10 M. The surety bond, securities, instruments or safekeeping receipt of
11 an eligible depository shall be deposited with the treasurer making the
12 deposit, and the treasurer shall be the custodian of the bond, securities,
13 instruments or safekeeping receipt. The treasurer may then deposit with the
14 depository public monies then in the treasurer's possession in accordance
15 with this article, but not in an amount in excess of the surety bond,
16 securities, instruments or safekeeping receipt deposited, except for federal
17 deposit insurance.

18 N. The following restrictions on investments are applicable:

19 1. An investment of public operating fund monies shall not be invested
20 for a maturity of longer than five years.

21 2. The board of deposit may order the treasurer to sell any of the
22 securities, and any order shall specifically describe the securities and fix
23 the date upon which they are to be sold. Securities so ordered to be sold
24 shall be sold for cash by the treasurer on the date fixed in the order, at
25 the then current market price. The treasurer and the members of the board
26 are not accountable for any loss occasioned by sales of securities at prices
27 lower than their cost. Any loss or expense shall be charged against earnings
28 received from investment of public funds.

29 O. If the total amount of subdivision monies available for deposit at
30 any time is less than one hundred thousand dollars, the subdivision board of
31 deposit shall award the deposit of the funds to an eligible depository in
32 accordance with an ordinance or resolution of the governing body of the
33 subdivision.

APPROVED BY THE GOVERNOR APRIL 19, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2011.

Passed the House April 12, 2011,

by the following vote: 58 Ayes,

1 Nays, 1 Not Voting

[Signature]
Speaker of the House

Cheryl Laupe
Chief Clerk of the House

Passed the Senate March 2, 2011,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]
President of the Senate

Charmain Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14 day of April, 2011.

at 4:46 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 19th day of

April, 2011,

at 9:40 o'clock P. M.

[Signature]
Governor of Arizona

S.B. 1239

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19th day of April, 2011,

at 11:12 o'clock a M.

[Signature]
Secretary of State